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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,163	03/19/2004	Ragu Saimanohar	0050-011P/FLS	7404

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EXAMINER	
TRAN LIEN, THUY	

ART UNIT	PAPER NUMBER
1761	

MAIL DATE	DELIVERY MODE
05/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/805,163	SAIMANOHAR ET AL.	
	Examiner	Art Unit	
	Lien T. Tran	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 April 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 2-25 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 2-25 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☒ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Applicant's election without traverse of Group II, claims 2-25 in the reply filed on 4/5/07 is acknowledged.

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Indian on March 27, 2003. It is noted, however, that applicant has not filed a certified copy of the foreign application as required by 35 U.S.C. 119(b).

Claims 2-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2: Line 1, the term " high protein" is indefinite because it is a relative term; what would be considered as " high protein". Also, the claim is indefinite because it is depended from claim 1 which has been withdrawn. Line 2, the phrase " the wheat kernels" does not have antecedent basis. Line 4, the phrase " the defatted soy flour" does not have antecedent basis. Line 7, the use of the term " paste" is confusing; a paste is normally understood to mean a viscous, fluid-containing material. When peanut is grounded, a granulated material will form; it is not seen how a paste will form without any addition of fluid material. Line 10, the use of the term " paste" with regard to the sesame seeds has the same problem as line 7. Lines 12 and 15, the use of the word " namely" is indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. Lines 16-17, the phrase " the vitamin and mineral premix" lacks antecedent basis. Line 20, what does applicant mean by " formula water". Line 21, the term " paste" has the same problem as line 7. Line 23, the phrase " such as " is indefinite because it is unclear whether the limitations following the

phrase are part of the claimed invention. Step (xv) is indefinite because it is not known what is being baked. Line 29, the terms " high protein" have the same problem as in line 1.

Claim 4 is vague and indefinite. It is unclear how claim 4 further limits claim 2 because the limitation recited in claim 4 is already in claim 2.

Claims 5-12,14,21,22,24 have the same problem as claim 4. All the limitations in these claims are already recited in claim 2.

Claim 13 is vague and indefinite because it is depended from a withdrawn claim; it is not clear what is intended.

Claims 15,16,19 have the same problem as claim 13.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prosise et al in view of Engelman et al and Tanaka et al.

Prosise et al disclose a method of forming nutritious snack food products. The food product comprises vegetable protein materials such as soy flour, peanut flour, cereal protein etc.. mixture thereof, milk proteins such as nonfat dry milk solids, whey protein, caseins etc.., fat or oil, carbohydrates including flour sugar alcohol, glucose, xylose , fiber materials, adjunct ingredients such as leavening agent, emulsifiers, , processing aids etc.., flavoring agents and vitamins as shown on columns 21-22. Prosise et al disclose the steps of forming cracker as shown on columns 46-47. (see columns 10,13,15,18,19,21-23)

Prosise et al do not disclose the individual steps of forming the whole wheat flour, peanut paste, sesame paste, the use of roasted wheat germ, the thickness, diameter as claimed and the time and temperature of baking as claimed.

Engelman et al disclose a process of making low carbohydrate product. They teach the use of a nutritionally complete protein food such as sesame seeds formed into protein powder. (see col. 3)

Tanaka et al disclose it is known in the art to roast soy materials to reduce beany or off-flavors. (see col. 4 lines 18-20)

Prosise et al teach to use flour in making the snack product; it would have been obvious to use whole wheat flour to further enhance the nutrition of the product because whole wheat flour contains more fiber and nutrient than regular flour. The use of whole wheat flour is equivalent to the claimed step of powdering wheat kernels to form flour. If one does not want the convenient of using already made wheat flour, it would have been obvious to start from scratch using wheat kernels. The selection of

any particular size would have been a matter of preference. The same is true with the use of peanut flour versus grinding peanut into a paste. If one wants to starch from scratch, it would have been obvious to use peanut. It would have been within the skill of one in the art to determine the roasting temperature and time. It would have been obvious roast the soy flour for the reason well known in the art as shown by Tanaka et al. It would have been within the skill of one in the art to determine the appropriate roasting time and temperature through routine experimentation. It would have been obvious to use sesame seed powder as taught by Engelman et al to have a complete protein material in the Prosise et al product because they teach a mixture of protein materials can be used. It would have been obvious to roast the sesame seeds when desiring a toasted flavor. Prosise et al teach fiber materials and other cereal material can be added. Thus, it would have been obvious to add wheat germ because it is a material packed with protein, fiber, vitamin and mineral. The addition of wheat further enhances the objective of the Prosise et al food product. It would have been obvious to roast the wheat germ when wanting the toasted flavor. One skilled in the art can readily determine the roasting time and temperature through routine experimentation. It would have been obvious to one skilled in the art to determine the amounts of ingredients through routine experimentation depending on the type of product made and the flavor, taste, texture and nutritional profile desired. It would have been obvious to vary the thickness of the dough sheet depending on the type of product and the texture wanted. It would have been obvious to cut the product in any size; this would have been a matter of preference. It would have been within the skill of one in the art to determine

the appropriate baking time and temperature depending on the product made and the degree of baking wanted. Such parameters are well within the determination of one in the art. The properties of the wheat claimed are conventional and would have been present in commercially available flour. The specific sequences are matter of optimization. It would have been obvious to one skilled in the art to determine the mixing parameters that would give the most optimum working conditions and product the most optimum product. It would have been obvious to pack the product for storage and distribution.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cohen discloses soy-based dough products.

Namdari discloses a high protein dough mix.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Monday, Wed-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cano Milton can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

May 10, 2007

Lientran
LIEN TRAN
PRIMARY EXAMINER
Group 1700